

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID DOUGLAS MOELLER,

Petitioner,

V.

STATE OF WASHINGTON,

Respondent.

CASE NO. C13-5337 RJB-JRC

ORDER TO AMEND THE PETITION

The District Court has referred this petition for a writ of habeas corpus to United States Magistrate Judge, J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner seeks relief from a state conviction. Petitioner filed the petition pursuant to 28 U.S.C. § 2254.

Petitioner names the State of Washington as respondent. The proper respondent is “the person having custody of the person detained.” 28 U.S.C. § 2243. Petitioner needs to name a natural person -- not a governmental entity. This person is usually the superintendent of the facility in which petitioner is incarcerated. Petitioner’s failure to name the correct party deprives

1 this Court of personal jurisdiction. *See Stanley v. California Supreme Court*, 21 F.3d 359, 360
2 (9th Cir. 1994).

3 The Court Orders that petitioner file an amended petition or a motion to change the case
4 caption. Petitioner's amended petition or motion will be due on or before June 14, 2013.

5 Failure to comply with this order will result in a Report and Recommendation that this
6 action be dismissed for failure to comply with a court order and lack of in personam jurisdiction
7 over respondent.

8 The Clerk is directed to mail a copy of this Order to petitioner and note the June 14,
9 2013, deadline on the Court's calendar.

10 Dated this 10th day of May, 2013.

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13 J. Richard Creatura
14 United States Magistrate Judge
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